

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**November 17, 2009**

**DIVISION ONE**

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Chaney, J. and S. Stahl, Deputy Clerk.

B214365     Smith  
                 v.  
                 Harris, et al.

Merits:  
Argued by Dan E. Fleischman for appellant and no appearance for  
respondents. Cause submitted.

Johnson, J. assumes the bench.

B208832     Vidikan  
                 v.  
                 Sommers

Merits:  
Argued by Christopher J. Zoipatti for respondent and no appearance for  
appellant. Cause submitted.

B210297     Silas  
                 v.  
                 Scott Arden & Salter LLP, et al.

Merits:  
Argued by Robert D. Wilner for appellants and by Martina A. Silas for  
respondent. Cause submitted.

Mallano, P.J. leaves the bench.

## DIVISION ONE (continued)

B207273      Gaggero  
v.  
First Federal Bank of California

Merits:  
Argued by Gary L. Bostwick for appellant Gaggero and by Steven N. Richman for appellant First Federal Bank of California. Cause submitted.

Court adjourned.

B217855      D.N., Sr.,      (Not for Publication)  
v.  
Superior Court, Los Angeles County

The petition is denied.

Johnson, J.

We concur:   Mallano, P.J.  
                      Rothschild, J.

B215588 People (Not for Publication)  
v.  
Flores

The judgment is affirmed.

Johnson, J.

We concur: Rothschild, Acting P.J.  
Chaney, J.

## DIVISION ONE (continued)

[illegible]

The judgment is modified to provide for a single prison term of life with the possibility of parole. The sentence for the assault conviction is stayed. As so modified, the judgment is affirmed. The court is directed to prepare a new abstract of judgment reflecting this change and to forward it to the Department of Corrections and Rehabilitation.

Chaney, J.

We concur:   Mallano, P.J.  
                      Johnson, J.

B207933	People v. Gonzalez	(Not for Publication)
B216555	In re Gonzalez on Habeas Corpus	

The section 186.22 gang enhancement is reversed. The sentence on count two is reversed. The judgment is otherwise affirmed. The case is remanded for resentencing. The trial court is directed to order a second \$20 court security fee, for a total of \$40 in court security fees. The trial court is also directed to amend the abstract of judgment and forward the amended abstract to the appropriate authorities. The petition for writ of habeas corpus is denied.

Chaney, J.

We concur:   Mallano, P.J.  
                      Rothschild, J.

## DIVISION ONE (continued)

B209926 Yaffe (Not for Publication)

V.

Mendelsohn, et al.

Krane &amp; Smith, et al.

The trial court's order of May 13, 2008 awarding sanctions is reversed.

Johnson, J.

We concur:   Mallano, P.J.

Chaney, J.

B211988 Shankar

V.

Chu Sarang Medical, Inc.

Filed order denying petition for rehearing.

B212165      311 South Spring Street Company, LP

V.

State of California

Filed order denying petition for rehearing.

## DIVISION TWO

B212349      Diaz      (Not for Publication)  
v.  
Shackelford

The judgment is reversed, and the matter is remanded to the trial court for the issuance of a statement of decision on the issues of res judicata and whether plaintiff is barred from pursuing a claim in a civil action for unpaid overtime. Defendant is entitled to costs on appeal.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B211737 People (Not for Publication)  
v.  
Soto

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                          Chavez, J.

B210246 People (Not for Publication)  
v.  
Hernandez

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Chavez, J.

November 17, 2009 (Continued)

## DIVISION TWO (continued)

B212921 People (Not for Publication)

v.  
Waldrop

### The Court:

The judgment is affirmed.

Boren, P.J., Ashmann-Gerst, J., Chavez, J.

## DIVISION THREE

B210916 People (Not for Publication)

V.  
A.H.

The orders of the juvenile court are affirmed. The minute order dated September 2, 2008 is ordered modified to delete reference to the maximum term of confinement.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

B200006 Merrill, et al. (Certified for Partial Publication)

V.  
Leslie Controls, Inc.  
Elliott Company

The judgment in favor of Merrill is reversed. The orders granting summary judgment for Elliott Company and granting summary adjudication for Leslie Controls are affirmed. Costs on appeal are awarded in favor of Elliott Company and Leslie Controls.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

### DIVISION THREE (continued)

B211712      Atherley      (Not for Publication)  
v.  
Atherley

The judgment is affirmed. Costs on appeal are awarded to respondent Harry Vaughn Atherly.

Kitching, J.

We concur:   Croskey, Acting P.J.  
                  Aldrich, J.

## DIVISION FOUR

B211121      Tyrell      (Not for Publication)  
v.  
Tyrell

The order of the family court is affirmed. Respondent is awarded costs on appeal.

Manella, J.

We concur: Epstein, P.J.  
Suzukawa, J.

B211115 Harari (Not for Publication)  
v.  
Hecht

The order denying appellant's motion to set aside the December 2004 order is affirmed. Respondent shall have its costs on appeal.

Manella, J.

We concur: Epstein, P.J.  
Suzukawa, J.

DIVISION FOUR (continued)

B212674      Murray Company                      (Not for Publication)  
v.  
California Occupational Safety and Health Appeals Board

The judgment is affirmed. Respondent and real party in interest are awarded their costs on appeal.

Manella, J.

We concur:   Epstein, P.J.  
                    Willhite, J.

B206682      City of Los Angeles                      (Not for Publication)  
v.  
Personal Electric Transports, Inc.

The judgment is affirmed. The City shall have its costs on appeal.

Manella, J.

We concur:   Willhite, Acting P.J.  
                    Suzukawa, J.

B210543      People  
v.  
King

Filed order denying petition for rehearing.

B210649      L.A. Arena Funding, LLC  
v.  
Navarro, D.N. Concrete Pumping, Inc.

Filed order denying petition for rehearing.



DIVISION FIVE

B214777      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
L.K.  
In re L.K. Jr.

The finding father is an alleged father is vacated, and the matter is remanded to the dependency court with directions to enter a finding declaring father the children's presumed father. In all other respects, the judgment and orders are affirmed.

Kriegler, J.

We concur:    Turner, P.J.  
Mosk, J.

B213389      People                              (Not for Publication)  
v.  
B.S.R.

The judgment is affirmed.

Kriegler, J.

We concur:    Turner, P.J.  
Armstrong, J.

B216080      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
A.N.  
J.A.

The judgment is affirmed.

Kriegler, J.

We concur:    Armstrong, Acting P.J.  
Mosk, J.

DIVISION FIVE (continued)

B215531      Los Angeles County, D.C.F.S.      (Not for Publication)  
                 v.  
                 M.V.  
                 Z.M.

The judgment is affirmed.

Kriegler, J.

We concur:    Turner, P.J.  
                 Mosk, J.

B207613      1680 Property Trust et al      (Certified for Partial Publication)  
                 v.  
                 Newman Trust

The summary judgment in favor of the Newman Family Trust is affirmed. The Newman Family Trust is awarded its costs on appeal. The summary judgment in favor of Ampton Investments, Inc. and Laurence N. Strenger is reversed and the matter is remanded to the trial court for further proceedings. Plaintiffs shall recover their costs allocable to their appeal of the summary judgment in favor of Ampton Investments and Laurene N. Strenger.

Mosk, J.

We concur:    Turner, P.J.  
                 Kriegler, J.

## DIVISION FIVE (continued)

B209800      People                                  (Not for Publication)  
v.  
Vernon T. Johnson, et al.,

Those portions of the judgment as discussed in part III(D)(1)-(5) are reversed and modified as noted. Upon remittitur issuance, the superior court clerk is to prepare corrected abstract of judgment which accurately reflect the modifications set forth in part III(D)(1)-(5) of this opinion and forward them to the Department of Corrections and Rehabilitation. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Mosk, J.  
Kriegler, J.

[illegible]

The appeal is dismissed.

Turner, P.J.

We concur: Armstrong, J.  
Kriegler, J.

[illegible]

The attorney fees order is reversed and remanded with directions to hold a hearing on defendant's ability to pay attorney fees. Otherwise, the judgment of conviction is affirmed.

Mosk, J.

We concur:   Armstrong, Acting P.J.  
                      Kriegler, J.

## DIVISION FIVE (continued)

B212797 Justin Ringgold-Lockhart  
v.  
Myer Sankary et al

Filed order denying petition for rehearing.

B217885      People  
v.  
Aaron Robert John Holly

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed 7-24-09) dismissed.

## DIVISION SIX

B210115      People      (Not for Publication)  
v.  
Bruce Duane Nelson

The judgment is affirmed.

Yegan, J.

We concur:    Gilbert, P.J.  
                         Coffee, J.

[illegible]

The judgment is affirmed. The parties shall bear their own costs on appeal.

Yegan, Acting P.J.

We concur: Coffee, J.  
Perren, J.

DIVISION SIX (continued)

B206368      People  
                 v.  
                 Tejeda

Filed order denying petition for rehearing.

DIVISION SEVEN

B207270      Abdelrahim                      (Not for Publication)  
                 v.  
                 Guardsmark, LLC et al.,

The judgment is affirmed. Respondents are entitled to costs on appeal.

Woods, J.

We concur:    Perluss, P.J.  
                 Zelon, J.

B207782      Isaacs                                      (Not for Publication)  
                 v.  
                 Isaacs

The judgment is affirmed. The respondent is entitled to costs on appeal.

Woods, J.

We concur:    Perluss, P.J.  
                 Zelon, J.

DIVISION SEVEN (continued)

B214567      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
T. V.,

The judgment is affirmed.

Woods, J.

We concur:    Perluss, P.J.  
                 Jackson, J.

B204268      Jon M. Gunderson      (Not for Publication)  
v.  
Richard Wall et al.

The awards of punitive damages against Wall and Welded are reversed. In all other respects, the judgments against Wall and Welded are affirmed. The judgment against Gruys is reversed and the matter remanded to the trial court for a new trial on Gunderson's claims against Gruys. On remand, the trial court is directed to set aside its discovery sanction order and to issue a new order imposing appropriate discovery sanctions against Gruys in accordance with this opinion. Appellants shall recover their costs on appeal.

Zelon, J.

We concur:    Woods, Acting P.J.  
                 Jackson, J.

B215349      People      (Not for Publication)  
v.  
Robles

The appeal is dismissed.

Zelon, J.

We concur:    Woods, Acting P.J.  
                 Jackson, J.

DIVISION SEVEN (continued)

B213988      Luke Vu      (Not for Publication)

v.  
Superior Court, Los Angeles County  
(Ralphs Grocery Company, r.p.i.)

Let a peremptory writ of mandate issue directing the trial court to vacate its order granting Ralph's petition to compel arbitration and to issue a new and different order denying the petition. Vu shall recover his costs in this original proceeding.

Woods, J.

We concur:    Perluss, P.J.  
                 Jackson, J.

B207874      John C. Herklotz      (Not for Publication)

v.  
Plaza Entertainment et al.

The judgment of the superior court is affirmed. Respondents are to recover their costs on appeal.

Zelon, J.

We concur:    Woods, Acting P.J.  
                 Jackson, J.

B209655      People      (Not for Publication)

v.  
Holmes

The judgment of the superior court is affirmed.

Zelon, J.

We concur:    Woods, Acting P.J.  
                 Jackson, J.

DIVISION SEVEN (continued)

[illegible]

The judgment is affirmed.

Zelon, J.

We concur: Woods, Acting P.J.  
Jackson, J.

B205614      Tri/Sam Development, Inc.,(Not for Publication)  
v.  
Lacuara, et al.

The judgment is affirmed. Pablo Leyden Lacuara and Leyden Corporation doing business as CDW Waterproofing are to recover their costs on appeal.

Perluss, P.J.

We concur:   Zelon, J.  
                      Jackson, J.

B210059      Jessen      (Not for Publication)  
v.  
Mentor Corporation

The order is affirmed. Mentor is to recover its costs on appeal.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.



## DIVISION SEVEN (continued)

B208799 People (Not for Publication)  
v.  
Kane

The judgment is reversed with respect to the gang enhancement findings on all counts and the matter remanded for resentencing. In all other respects, the judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B196973      Theurer      (Not for Publication)  
v.  
Theurer

The judgment is affirmed except it will be corrected to reflect a credit to Michael for one half the proceeds from the sale of the 1996 Jeep Grand Cherokee. Michael and Mary are to bear their own costs on appeal.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B206320 People (Not for Publication)  
v.  
Rodriguez

The judgment is affirmed.

Perluss, P.J.

We concur: Woods, J.  
Jackson, J.

DIVISION EIGHT

B214697      DCFS      (Not for Publication)  
v.  
A.T. et al.  
In re C.M., a Person Coming Under the Juvenile Court Law.

The order dismissing the petition is affirmed.

Mohr, J. (Assigned)

We concur: Rubin, Acting P.J.  
Bigelow, J.

B217853      Nutra Genetics, LLC      (Certified for Publication)  
v.  
Superior Court, Los Angeles County  
(Robert Cavenah, r.p.i.)

The order to show cause is discharged. NutraGenetics's petition for writ of mandate or other appropriate relief is denied and this court's order of July 30, 2009 temporary stay order is vacated. The real party in interest is entitled to recover his costs.

Mohr, J. (Assigned)

We concur: Flier, Acting P.J.  
Bigelow, J.

B209557      John Doe, et al.  
v.  
Roman Catholic Bishop of San Diego, et al.

Filed order modifying opinion. (No change in the judgment)